

## NASHVILLE, TENNESSEE

**IN RE:**

**PETITION FOR APPROVAL OF TENNESSEE  
WASTEWATER SYSTEMS, INC, TO EXPAND  
ITS SERVICE AREA TO INCLUDE A PORTION  
OF UNION COUNTY, TENNESSEE, KNOWN AS  
THE STEVE JONES SUBDIVISION LOCATED  
ON HICKORY VALLEY ROAD**

**DOCKET NO.**  
**05-00116**

## ORDER APPROVING PETITION TO AMEND CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Chairman Ron Jones, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on July 11, 2005 to consider the *Petition of Tennessee Wastewater Systems, Inc to Amend its Certificate of Convenience and Necessity* (the “*Petition*”) requesting that the Authority expand its service area to include a portion of Union County, Tennessee known as the Steve Jones Subdivision located on Hickory Valley Road (“Steve Jones Subdivision”).

## Background

On April 6, 1994, Tennessee Wastewater Systems, Inc.<sup>1</sup> (“TWS” or “Company”) received a Certificate of Public Convenience and Necessity (“CCN”) in Docket No. 93-09040 from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee. The Company’s principal office is located in Nashville, Tennessee. TWS filed the *Petition* in this

<sup>1</sup> Tennessee Wastewater Systems, Inc. was formerly known as On-Site Systems, Inc. This name change was effected by the TRA's order of February 19, 2004, in Docket No. 03-00518.

matter on April 28, 2005 and the Pre-filed Direct Testimony of Charles Pickney, Jr. on May 25, 2005.

### **Legal Standard for Granting Certificate of Public Convenience and Necessity**

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Authority. The procedure for obtaining a CCN evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a) (2004), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . . .

### **The Petition**

On April 28, 2005, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Union County, Tennessee known as Steve Jones Subdivision. TWS attached several letters to its *Petition* in support of its request to expand its service area. TWS attached a letter from the developer expressing its desire that TWS provide service to the property. In addition, TWS attached letters from each of the three other potential wastewater service providers stating that none of the potential providers currently serves the area. The letters also indicate that none of the other potential wastewater service providers intends to extend wastewater service to Steve Jones Subdivision.<sup>2</sup>

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<sup>2</sup> See *Petition* (unnumbered attachments) (April 28, 2005): Letter from Steve Jones, Steve Jones Development Co (April 14, 2005), Letter from H E Richardson, Mayor, City of Maynardville, Tennessee to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (December 1, 2004), Letter from Larry G. Lay, Mayor, Union County, Tennessee to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (January 31, 2005), Letter from Marvin Hammond, President/CEO, Hallsdale-Powell Utility District, to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (November 23, 2004)

The Company also filed with the *Petition* a document outlining the estimated system costs and revenues for five years for Steve Jones Subdivision, a billing summary listing the Company's residential customers and the corresponding residential sewer rates and a service area map showing the proposed location of Steve Jones Subdivision.<sup>3</sup> As noted in the billing summary, a \$35.11 residential sewer rate will apply to the Steve Jones Subdivision.

#### **The July 11, 2005 Authority Conference**

Pursuant to Tenn. Code Ann. § 65-4-201(a) (2004), public notice of the Hearing in this matter was issued by the Hearing Officer on June 16, 2005. No person sought intervention prior to or during the Authority Conference. At the Authority Conference held on July 11, 2005, Mr. Charles Pickney, President of TWS, participated, presented testimony and was subject to examination by the panel. Mr. Pickney's Pre-Filed Testimony was entered into the record in this matter at the Authority Conference. The Pre-Filed Testimony demonstrates that the Company has the managerial, technical and financial ability to provide wastewater services to Steve Jones Subdivision.<sup>4</sup> Additionally, the panel took administrative notice of TWS's 2004 annual report filed with the Authority. At the time of the Authority Conference TWS had not obtained a final permit from the Tennessee Department of Environment and Conservation ("TDEC") for the system.

Based upon the evidentiary and administrative record as a whole and relying on the legal criteria set forth in Tenn. Code Ann. § 65-4-201(a) (2004), the panel voted unanimously to approve the *Petition* subject to receipt of a final permit from the TDEC evidencing its approval of the Company's application to provide service to Steve Jones Subdivision. The panel also

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<sup>3</sup>*Petition*, (unnumbered attachments) (April 28, 2005) The Company also provided a rate schedule for commercial sewer rates

<sup>4</sup> Charles Pickney, Jr., Pre-Filed Testimony, p. 1 (May 25, 2005)

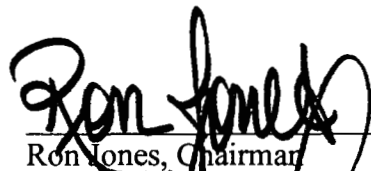
ordered TWS to notify the Authority in writing at the time it receives a permit from TDEC for the Steve Jones Subdivision.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include Steve Jones Subdivision in Union County, Tennessee, as shown in the map attached to the *Petition*, is approved subject to a final permit from the Tennessee Department of Environment and Conservation.

2. The Petitioner's rates for wastewater service shall be as listed in the rate schedules filed with the *Petition* and as set forth in this Order.

3. Tennessee Wastewater Systems, Inc. shall provide written notification to the Authority once it has received a final permit evidencing the Tennessee Department of Environment and Conservation's approval of Tennessee Wastewater Systems, Inc.'s application to provide service to Steve Jones Subdivision in Union County, Tennessee.

  
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Ron Jones, Chairman

  
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Pat Miller, Director

  
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Sara Kyle, Director